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JANUARY 9, 1947

Town Meeting



BROADCAST BY STATIONS OF THE AMERICAN BROADCASTING CO.

BULLETIN OF AMERICA'S TOWN MEETING OF THE AIR



Should We Have Labor-Management Courts To Settle Labor Disputes?

Moderator, GEORGE V. DENNY, JR.

Speakers

HOMER FERGUSON

BORIS SHISHKIN

Interrogators

VICTOR RIESEL

MRS. ELINORE HERRICK

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COMING

—January 16, 1947—

Should Rent Ceilings Be Lifted?

—January 23, 1947—

Can We Have a Twenty-Five Per Cent Wage Increase Without Raising Prices?

Published by THE TOWN HALL, Inc., New York 18, N. Y.





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THE BROADCAST OF JANUARY 16:

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BULLETIN OF AMERICA'S TOWN MEETING OF THE AIR

GEORGE V. DENNY, JR., MODERATOR



JANUARY 9, 1947

VOLUME 12, NUMBER 37

Should We Have Labor-Management Courts To Settle Labor Disputes?

Announcer:

Yes, friends, it's Town Meeting time and time for your favorite radio forum, America's Town Meeting of the Air, brought to you each week by Town Hall, New York, and the American Broadcasting Company.

Tonight, as you participate in this nation-wide Town Meeting, we hope you'll remember that you are enjoying one of the blessings of liberty—won only too recently once again for us on the fields of battle, on land, on sea, and in the air.

Each week your Town Meeting hosts are saying to you, "Let us do our full part to win the peace by reasoning together about our common problems."

Discussion is civilization's substitute for force, so pull your chair a little closer as we present our moderator, the president of the Town Hall, New York, and

founder of America's Town Meeting of the Air, Mr. George V. Denny, Jr. Mr. Denny. (*Applause.*)

Moderator Denny:

Good evening, neighbors. Tonight we have an important announcement to make. On the last day of December, 1946, representatives of Town Hall and the American Broadcasting Company met together to consider what is known as "co-operative sponsorship" for America's Town Meeting of the Air.

Co-operative sponsorship for Town Meeting would mean that each station may have a different sponsor—some local public-service minded institution, such as a newspaper, bank, utility, manufacturer, or leading business concern would sponsor this program in your community. The enthusiastic response of our station managers, who have been bringing America's Town

Meeting to you all these past years was the determining factor that made us decide to make your Town Meeting available for local sponsorship beginning tonight. Many of you have just heard the names of your local sponsors, and we take this opportunity to extend our warmest greetings to them.

There will be only one sponsor on each station, of course, and until a local sponsor is secured the program will continue to be carried by most ABC stations on a sustaining basis.

Both Town Hall and the American Broadcasting Company believe this to be in the highest interest of the program and its widest possible usefulness. No sponsor or group of sponsors will have any control over the program or anything to do with the choice of subjects or speakers. This program will continue just as it has in the past, only with these added resources we hope to make it better than ever, as in due time it becomes sponsored by leading business institutions in more than 200 communities throughout the nation.

And now to tonight's subject. The 80th Congress of the United States is convened, the President has delivered two messages on the state of the Union, and the major domestic problem before it and the Nation remains the question of how to settle labor-management

disputes without disrupting the economic life of our country.

Regular Town Meeting listeners know that we've tackled this problem before from many angles, and we're tackling it again two weeks from tonight in High Point, North Carolina.

For several months now we've been testing your interest in this topic by means of questionnaires distributed among our audiences in different parts of the country, and it's always come out among the first three questions at the top of the list.

Senator Ferguson was one of the first national figures who proposed labor-management courts. The *American Magazine* has just published an article by him on this subject.

We regret very much that illness prevents Mr. Robert J. Watt of the A. F. of L. from being with us this evening, but we are pleased to welcome an old friend, Mr. Boris Shishkin, economist of the A. F. of L., who challenges Senator Ferguson's proposal as unsound, unworkable, and undesirable.

As guest interrogators tonight, we have two other authorities in the field of labor-management relations, Mr. Victor Riesel, syndicated columnist and labor editor of the *New York Post*, and Mrs. Elinore Herrick, former director of the National Labor Relations Board, and now a member of the

editorial staff of the *New York Herald Tribune*.

We will hear first from the distinguished Republican Senator from the State of Michigan, the Honorable Homer Ferguson, Senator Ferguson. (*Applause.*)

Senator Ferguson:

Thank you, Mr. Denny. Good evening, fellow citizens. It shouldn't be difficult for Town Meeting listeners to understand why we need labor-management courts to settle labor disputes. You are among the alert-minded leaders in your community who keep abreast of the times, and you know how close to disaster our entire economic system has come during the past fifteen months because labor and management failed to settle their disputes voluntarily.

People are beginning to ask, and I don't blame them, what has become of our system of government under law? We don't allow individuals to shoot it out in the streets if they have a quarrel. Why should we allow groups of men to shoot out their quarrels with economic weapons which affect the lives and the welfare of hundreds of thousands of innocent citizens?

Have we no way to protect ourselves against the irresponsible use of force? I am sure that many of you have asked similar questions. The patient, law-abiding, freedom-loving citizens of America are jealous of the rights of the individual, but they are getting

fed up with the indiscriminate use of strikes, not against management but against the public, in order to enforce their demands upon management by creating economic chaos.

You people here in New York know how six thousand tugboat operators, a few months ago, paralyzed this great city and put you on your knees.

You also know how a few thousand truck operators threatened eight million people here in New York. They are getting tired of the type of management and labor, though only a few, that refuse to bargain in good faith and take advantage of their economic power to literally force workers to strike.

If we cannot learn to use our freedom with the proper respect for public interest, we shall deserve to lose it. It takes a lot of self-discipline to make a Republic work and to retain it.

I favor the extension of the principles of law to labor-management disputes only after voluntary collective bargaining has failed. We must make voluntary collective bargaining work. I advocate it on the very sound basis that each man's individual freedom ends when he tramples upon the rights of others.

Twenty-five years ago we didn't need red and green lights to regulate traffic. Today we do. This represents a restriction on the individual freedom of each person

who is stopped by the red light, but it means protection, security, and freedom for all to move within the framework of law.

Now, Mr. Shiskin, you know that the American labor is made up, in general, of law-abiding men and women, American citizens who believe in government under law and in the integrity of our courts. No country in the world has employed so much individual freedom, so much prosperity in this country which is founded on the principles of settling individual disputes in courts, in which all men are equal before the law.

Labor-management courts are not new. They have worked in Sweden, France, Australia, New Zealand, and I am convinced, if tried, they will work here in America.

Here, briefly, is how the labor-management courts would work. There would be district courts, circuit courts of appeal, and finally, yes, a supreme court of labor. But our present Supreme Court must remain as the highest court in the land because of the Constitution.

The judges would be appointed by the President and approved by the Senate. Yes, they'd receive up to \$15,000 a year, because they should be well paid so that they can afford to be impartial. There would be three judges in each district court, five or seven in the circuit court of appeals, and, say, nine in the supreme court.

We would want some lay judges as well as law judges. The lay judges would always outnumber the legal or law judges because of the many questions of fact that would come before the labor courts. In all cases they would be selected for their fair-mindedness. Any representative of labor or management, whether he be a lawyer or not, could appear before this court.

Unions and management would still negotiate their contracts by collective bargaining, just as they do today. If they can arrive at mutually agreeable contracts without help, fine. When they can't, then they would call upon the judges to act as mediators, or they would call on outsiders to act as mediators.

Some industries now employ umpires and they work well. The main thing is that they arrive at some agreement. It is hoped that all negotiators will be able to arrive at an agreement with the help of such machinery.

But if a basic industry, engaged in interstate commerce such as coal, or basic steel, or interstate public utilities are involved, a contract must be reached, for a protracted strike in these industries paralyzes our whole nation.

We cannot afford a protracted strike in such industries. If the parties cannot agree on the terms of the contract, then the courts

will decide and the decisions of the courts should be final.

These courts would parallel our regular federal courts and would judge every dispute on the basis of justice, the law, or the voluntary agreement of the parties.

All labor contracts affecting interstate commerce would be filed with these courts, and whenever disagreement arose concerning the terms set down in those contracts, the judge should help to arrive at a settlement as a mediator. If he failed in that—to arrive at such a settlement—the court would hold public hearings as in other cases, and make a decision that would be binding upon the parties to the contract.

Furthermore, in the cases I have mentioned where the parties were unable to reach an agreement on a contract to start with, the courts would resolve the matter and the decisions of the courts would be final.

I think these steps are necessary that labor-management arrive at a contract or decide the meaning of a contract already arrived at:

First, good faith and collective bargaining on the part of both sides. If they cannot honestly agree, then they set down in writing where they disagree.

Then a mediator should come in. A mediator is one who has no authority to decide the issue, but he is useful as a third party, hav-

ing no interest in the controversy, to suggest points of agreement or compromise.

The next step should be arbitration. Arbitration can be by agreement of the parties or by law. Arbitration by agreement of the parties is part of the collective bargaining system. This should be used when possible.

Arbitration compelled by law is not part of collective bargaining and I do not believe in it. Here is why: The parties name their arbitrators. They naturally name one who they believe will decide in their favor and if he is to name a third arbitrator, that third arbitrator will be one who is on the side of the person naming him. Thus we get persons strongly partisan to each side and a decision of such people does not fulfill our ideals of equal justice under law.

I believe that the Government should furnish a court to adjudicate the rights of the parties. Courts' adjudication is not arbitration. The judges must not be special pleaders or prejudiced on one side or the other. They represent the public and no particular group or side.

I see no other remedy when the Nation is faced with a monopoly, either of labor or management, which can paralyze the industrial life of the country but to have courts adjudicate the rights of the parties. (*Applause.*)

Moderator Denny:

Thank you, Senator Ferguson. Now let's hear the other side of the case from Mr. Boris Shishkin, economist of the American Federation of Labor. Mr. Shishkin. (*Applause.*)

Mr. Shishkin:

No, Senator Ferguson. My answer to the question is "No." And it is my considered judgment that not only labor but most employers will say no with me. In fact, Senator, I believe that the only vigorous support of the Ferguson proposal will come from these sources:

First, it will come from people like Senator Ferguson, who, no matter how well-intentioned, don't understand labor-management relations. They're too far away from them. They're the people to whom labor-management relations look far more simple than they really are. Such people sincerely believe that our industrial ills can be cured by such cure-alls and panaceas as Senator Ferguson's.

Then it will come from lawyers who will welcome a fat harvest from the new lush pastures Senator Ferguson would open up for them.

Finally, it would come from people who don't cherish their freedoms and would welcome increased government intervention.

I am opposed to legislation which would establish industrial

courts of arbitration on two grounds: First, because it will not work, and, second, it would subject the American people to compulsion reaching far into their free institutions, their democratic form of government and into their very lives.

For the past year or so industrial relations have been a mess. But industrial courts of arbitration would only multiply our difficulties instead of solving them. The very reason for our recent troubles is that the Government has intervened too much and too often in labor-management relations. Most of these work stoppages have taken place under a system of adjudication of issues, which is at the heart of the Ferguson scheme.

Consider the record of work stoppages which have taken place in the last year and a half. All of these big troubles we've had were cost-of-living troubles. The source of trouble was inflation, not the inadequacies of collective bargaining procedures. (*Applause.*) Outside of the cases where Government wrote the prescription and told both parties to take the medicine, collective bargaining has, in fact, worked successfully and effectively.

The big labor-management headache started with the wartime labor court, a compulsory court of last resort which was the War Labor Board.

The very existence of courts of last resort breeds disputes and prevents their settlement at the source. When you have a court of last resort, no management or labor representative worthy of his salt would have any inducement to resolve the trouble when and where it starts. No, he would be prompt to demonstrate that he, too, was entitled to the recognition, publicity, and prestige of carrying his controversy all the way up to the highest tribunal.

We have many big disputes, but don't forget, that these, even under worse conditions, were but a small fraction of the controversies. The vast majority were settled by employers and unions over the bargaining table without any outside intervention.

There are 50,000 contracts which govern the conditions of employment of about 15,000,000 workers who with their families total about 40,000,000 people.

You haven't heard much about most of these contracts for most of them have been negotiated directly over the bargaining table with patience, understanding, and good will of management and labor. These settlements were solved by voluntary and peaceful means.

Millions of specific problems coming up in thousands of plants and shops with each one involving some question of crucial importance to the employer and to the

worker in that particular plant and peculiar to that plant alone.

There is no superior wisdom that can prescribe better solutions by remote controls stemming not from knowledge and experience but from ignorance of the multitude of details which enter into the conduct of a business and the everyday work-life of a worker.

Labor courts are based on compulsions. Without compulsion there would not be courts. In every nation where they've been tried they've created more problems than they ever solved.

The measure of intervention necessary in the system of labor courts is repugnant to a system of private enterprise. A court must issue judgment based on law.

But where is there any law to guide the labor courts?

What standard would govern wages?

Whose standard?

The judge would have to make them. When the judge makes the law, determines the rights and duties of the parties, what wages should be paid, the number of hours to be worked, we simply have a decree imposed for the will of the employers and the workers.

If the Government through a labor court decides the earnings of workers and employers, the hours to be worked, the conditions of employment, and what goes in and comes out of the capital structure, it would require price and rate fix-

ing and lead to complete political control of our economic system.

If the union is ordered to accept a 40-hour week and 80 cents an hour and the employer is ordered to pay 80 cents an hour, I don't care what you call the system, employers and workers will find themselves in a political straight jacket and no longer free men.

We are opposed to giving control of industrial relations to those elected or appointed for their political status. The existence of a labor court shortcuts collective bargaining and brings forth political decisions. The end result is chaos in industry.

Labor courts will entangle all branches of political government in economic troubles. Both employers and workers would actively compete for the control of government in order to have a hand in the appointment of members of the court.

Courts similar to the Ferguson plan have been tried right here in America after World War I and proved a failure as well as unconstitutional in the operation.

We oppose labor courts of compulsory arbitration masquerading in judicial robes because we know that they would restrict many basic rights Americans hold dear. The right of free speech, the right to quit work, the right to free assembly, all those would be curtailed.

My plea against such courts is not a special plea. It is supported by the statement made by the Labor-Management Advisory Committee, the national committee on which the topnotch management representatives have been appointed on the designation of the N.A.M. and the Chamber of Commerce.

Industrial peace will not be secured by establishment of labor courts or by compulsion. Government should help to extend to all industries voluntary machinery for arbitration of disputes based on the acceptance of collective bargaining as an instrument of reason and equity and not of force.

Such was the proposal of the Labor-Management Advisory Committee in concrete, tangible set of specific situations to apply specific remedies and not to have one panacea or one cure-all.

There is no legislative substitute for self-discipline, good citizenship, and joint co-operation for common good. (*Applause.*)

Moderator Denny:

Thank you, Mr. Shishkin. Well, we certainly see why this is the Nation's number one domestic problem.

Now, Mr. Riesel, it's your turn to step up and give us an analysis of these two speeches directing special attention to Mr. Shishkin's remarks.

Mr. Victor Riesel, syndicated columnist, labor editor of the *New*

York Post. Mr. Riesel. (*Applause.*)

Mr. Riesel: Ladies and gentlemen, I'd like to direct most of my analysis to Mr. Shishkin's talk. His talk reminded me of a newspaper editorial board for which I once worked. The board would meet regularly and one chap would always be against. He'd fall asleep and then we'd poke him and ask for his vote on this particular issue and he'd kind of wake up, put his hand up and say, "I'm against it."

Now, it's the same thing with Mr. Shishkin and the A. F. of L. Back in 1926, Matthew Wall, still the second vice-president of the American Federation of Labor, said almost the same thing—twenty years ago. He was opposed to the founding of such a court saying that it would destroy the freedom of collective bargaining, and furthermore would be unconstitutional as well as impractical.

Now, I don't know whether Wall rewrote Shishkin or Shishkin rewrote Wall, but I think they ought to wake up and they ought to stop being *against*, if they're going to have any peace and not have laws which will cut the guts out of the American labor movement. (*Applause.*)

I would love to sit down and have an off-the-record talk with Boris Shishkin.

I wonder if he would say the same thing. I wonder if he would

say that it was a matter of cost-of-living problems that heads were being broken in Los Angeles in a jurisdictional fight which has already cost 28 million dollars in back wages.

I wonder if he would say the same thing about the beer war where only a few weeks ago, I heard and saw bullets fly in Pittsburgh in a fight between the teamsters and another union.

I wonder if he would say the same thing if we talked about the coal strike. He talks about compulsion. Where was the compulsion on the labor movement or on the public when Mr. Lewis decided, for the benefits of his own strategy and his own particular union, and I say for the benefit of the miners, but not to the benefits of the hundreds of thousands in Pittsburgh and Detroit and other cities that were thrown out of work, where was the compulsion there when Lewis decided preemptorily to go out on strike? (*Applause.*)

I love the applause but I only have another minute and if the hissing will stop until Mr. Shishkin gets on, I'd love it. (*Laughter.*)

Now, there's this point I want to make. He talks about the labor movement's liberties would be deprived under such a court. It wasn't deprived in Sweden where this court has been in operation since about 1919.

The labor movement opposed such a labor court in 1919, and then in 1939 when the labor government tried to repeal it, the trade unions were for it. Why? Because in that period they tripled the number of contracts and doubled the number of trade union members in Sweden.

The same thing goes for Denmark, and the same thing goes for Norway.

Now, there is one more point, and that is, I'd like to ask Mr. Shishkin, what he would do about the jurisdictional strikes? What is his solution to the strikes which are political such as those which were pulled in the maritime industry? We want a solution to these strikes. We need production. We need high wages. What's the solution, Mr. Shishkin? (*Applause.*)

Mr. Shishkin: I would like to say to Mr. Riesel that I would be very anxious to have an off-the-record talk with him then I could use some words that I couldn't possibly use in describing some of the misstatements of truth that he has just perpetrated over this microphone.

But as for the question about the jurisdictional disputes, I think that it is one of the most pressing problems that is the result of the growth of American technology and the growth of the labor movement also.

There are two kinds: One is the problem of the rivalry of the labor unions, such as the A. F. of L. and the C. I. O., in which most conflicts are today being resolved through the holding of an election in representation cases. That machinery is available under the Wagner Act and is working to the satisfaction of the employers.

There are the jurisdictional disputes that involve organizations within one group of labor organizations—within one federation—which do present a very serious and challenging problem as we ourselves recognize. The biggest challenge to labor today is to work out that solution, or to have the Government aid towards its working out.

What Mr. Riesel is doing here, you see, when we have a discussion tonight about the ill that affects all our body and here is the patient, he says, "Well, by the way, you also have a black eye and could you tell us about the solution of your particular health problem as an individual and your health security as a member of your family, and the infection that you might spread — about this black eye, let's test that out on this particular case." Is that fair, Mr. Riesel, may I ask you? (*Applause.*)

Mr. Riesel: Well, Mr. Shishkin, what I asked was the solution. What I want to ask again now is, don't you think that if there had

been a labor court as there is in some form in Britain—in a conversation recently, Bevin told me that such a thing as the coal strike couldn't have happened there. The government had the right to call in the government and any other employer, also the miners, sit down, subpoena the books, and give a decision.

Don't you think that the interest of the country, and I'm talking about the public, would have been served if Mr. Lewis had sat down with the Government in an impartial court and argued out this thing instead of its going to the Supreme Court and bringing the great hysteria which will cripple the labor movement eventually if the Republican Congress has its way. (*Applause.*)

Mr. Shishkin: You ask so many questions, Mr. Riesel. I'd like to take them up one at a time. On the first question which you keep right on asking about the jurisdictional disputes, and Mr. Bevin and everything all in the same breath, I'd like to say this, that if under your proposal as implemented by Senator Ferguson on your behalf in this coming Congress, you are required by the court decree to join the Daughters of the American Revolution, you will have to answer for yourself whether you would like to be a permanent member of that organization without being asked whether you wanted to belong.

As for Mr. Lewis, and the coal strike, I think that you've painted, just now, one of the most unfair representations of the problem that stemmed out of government control of an industry in which the Government denied the opportunities of the workers to sit down with them and work out with their representatives their problem, and sat down with one side first and imposed a specific straight jacket provision of just such a kind that is being proposed here.

No, the coal industry is a sick industry. We are not going to solve the problems of the coal industry by talking about labor courts or any legal tribunals. We are going to solve it only when the Government fully recognizes that there are many employers in the coal mining areas that today are submarginal, that they cannot pay decent wages to anybody, have not done so, and that they will not until the Government recognizes the whole economic problem and provides the complete economic solution, as you yourself know very well in your heart. (*Applause.*)

Mr. Denny: The hands of the clock are our master at this time and we must hear from another Town Hall Trustee who is not here in her capacity as a trustee tonight, but because she is an authority on labor-management relations, having been a member of the National Labor Relations

Board, personnel director of the Todd Shipbuilding Company, and now on the editorial staff of the *New York Herald Tribune*. She's going to turn her guns on Senator Ferguson. Mrs. Elinore Herrick. Mrs. Herrick. (*Applause.*)

Mrs. Herrick: I am no less concerned than you are, Senator Ferguson, in the problem of violation of contract and in the problem of strikes which paralyze our economy, but I do not think that your plan of labor courts is the answer — certainly not the best answer, and I don't really believe it is any answer. (*Applause.*)

It seems to me that you have touched too lightly on some features of your plan. In the current number of *American Magazine* you wrote that the plan did amount to compulsory arbitration. Tonight you say you don't approve of compulsory arbitration. You attempt to distinguish between court adjudication as being an entirely different thing from compulsory arbitration. Well, now, Senator Ferguson, to me, "a rose by any name"—and you know the rest of that quotation.

The fact is that disputes unresolved by negotiation or by mediation under your plan must be decided by a court and buttressed with drastic penalties for violation of awards or decisions. That all adds up to compulsory arbitration, it seems to me.

Your insistence that all labor contracts affecting interstate commerce are to be filed with the labor courts and conflict over interpretation of terms are to be handled by the judges seems to me completely unreal. There's a greatly broader interpretation of what is interstate commerce today than we've ever had or dreamed of before.

As you point out labor courts aren't new. The experience of Australia, New Zealand, you say has been very satisfactory, but opinions on that differ very markedly.

These countries have amended their laws repeatedly because they have not worked well. Their policy vacillated from one of being tough with the unions to one of removing penalties and even the compulsory speeches of referral to the courts.

So, I frankly, Senator Ferguson, want to come back to your description of how arbitrators are selected. It doesn't tally with my experience, because in my experience when the first two are confronted with the problem of selecting an arbitrator, they try to select one which each believes will give him a fair judgment, for if either tried to insist upon a partisan award, they would never reach agreement on a third arbitrator. How can you say that arbitration does not fulfill our ideals of equal justice?

Mr. Denny: Thank you, Mrs. Herrick. Senator Ferguson?

Senator Ferguson: Mrs. Her-
rick, I beg to differ with some of
the statements and that is par-
ticularly on the statement of the
question of arbitration. I have
served many years on the bench in
Michigan and I have seen arbitra-
tion work. I have seen courts func-
tioning. I still go back and think
that the ideals of America for a
court system is much better than
to use arbitration. If we have ever
attempted to use it in all other
fields of endeavor, it would not
work.

It didn't work in international
affairs. We had to set up recently
at San Francisco the International
Court of Justice so that we can
have judges to solve these prob-
lems and not go to war.

Now, you and I want to arrive
at the same thing. You say there
are violations of contract. If any-
one violates a contract now in any
other field than labor-management,
it goes to court. The reason I say
labor courts is because I want
speed because I know that delayed
justice is no justice at all. I would
create these new courts to com-
bine the jury and the judge system
together to try to solve our prob-
lems. I'm going to say to these
people on the opposite side, what
machinery do you propose to solve
these problems that America has
faced and will face in the future
if we don't use the judicial ma-
chinery? (*Applause.*)

Mr. Denny: Thank you, Senator
and Mrs. Herrick. We seem to

THE SPEAKERS' COLUMN

HOMER FERGUSON — Homer Ferguson,
Republican from Michigan, is serving his
first term in the U. S. Senate. He was
born in Harrison City, Pennsylvania, in
1889. He attended the University of Pitts-
burgh and received his LL.B. from the
University of Michigan. From 1913 to
1929, Senator Ferguson practiced law.
From 1929 until 1943 he was a circuit
judge of the Circuit Court for Wayne
County, Michigan. In November, 1942,
he was elected to the Senate and is now
a member of the Senate Appropriations
Committee.

BORIS BASIL SHISHKIN — Mr. Shishkin
was born in Russia in 1906 and came to
the United States in 1923. In 1930 he
graduated with honors from Columbia
University where he continued for an-
other year as a graduate student. After
a year of study with the Brookings In-
stitute, and as a research associate at
Columbia, he became an economist for
the American Federation of Labor. Since
1939 he has also been a member of the
housing committee.

Mr. Shishkin has been a member of
numerous federal commissions and boards
concerned with such matters as housing,
production, labor policies, children in
wartime, and fair employment practices.

VICTOR RIESEL—Mr. Riesel is a syndi-
cated columnist and labor editor of the
New York Post.

MRS. ELINORE HERRICK—Mrs. Herrick is
personnel director and member of the
editorial staff of the *New York Herald
Tribune*. She was executive vice chair-
man in charge of the New York office
of the National Labor Board. Upon pas-
sage of the Wagner Act, she became
regional director for the present National
Labor Relations Board, a position she
held until 1942. During the remainder
of the war, Mrs. Herrick was in charge
of personnel and labor relations for the
Todd Shipyards Corporation. She was at
one time a factory worker and later pro-
duction manager in the Du Pont Rayon
Corporation.

have reached the place where we've got to get ready for the questions from our Town Hall audience so let's have a brief pause for station identification.

Announcer: You are listening to America's Town Meeting of the Air brought to you by Town Hall and the American Broadcasting Company originating in Town Hall in New York City.

We are discussing the question, "Should We Have Labor-Management Courts To Settle Labor Disputes?"

If you would like a complete copy of tonight's discussion, including the questions and answers to follow, you may secure it by sending ten cents to cover the cost of printing and mailing to Town Hall, New York 18, New York. If you would like to have this Bulletin in a handy pocket size come to you regularly each week, enclose \$1 for eleven weeks, or \$2.35 for six months, or \$4.50 for a year. Remember the address, Town Hall, New York 18, New York, and allow at least two weeks for delivery. Now, to be sure you're up

to date on last minute news, we take you to our A.B.C. newsroom for the latest news summary.

Commenator: Senator Taft says that Republicans generally believe that three to four billion dollars can be cut from the thirty-seven billion dollar budget President Truman will reportedly ask for tomorrow.

In a speech tonight, Taft also outlined a G.O.P. legislative program designed to discourage strikes and slice 20 per cent off personal income taxes.

South Dakota's Representative Case today introduced the 1947 version of his now well-known Case Bill. The proposed legislation is a catch-all affair embodying 40 proposals, among them government power to stop publicly injurious strikes through court injunction.

C.I.O. President Philip Murray in a letter to all Congressmen tonight said that many proposals now pending in Congress would destroy organized labor.

Now, we return you to Mr. Denny in Town Hall.

QUESTIONS, PLEASE I

Mr. Denny: Now, we are ready for some good pointed questions from our speakers. The young man right over here, please.

Man: My question is for Senator Ferguson. Would your courts consider examining the books and

the three P's, namely, production, prices, and profits?

Senator Ferguson: In the case of a public utility, where the Government now fixes the rate of selling of the product under all public utilities, I think that it's essential,

if the parties cannot agree prior to the paralyzing of this Nation and the suffering by all of our citizens, that the Government should, in that kind of a case, set in and examine the whole problem and determine what a fair wage is because they have determined already what the fair price of the product is and the fair return to the owner of the investment.

Mr. Denny: Thank you, Senator. The gentleman in the balcony with the red scarf.

Man: I'd like to question Mr. Shishkin. You are opposed to a labor court, but how would you settle those problems that can't be settled by arbitration?

Mr. Shishkin: I have the answer in the recommendations that was made less than three weeks ago by the Labor-Management Advisory Committee in which both labor and top management representatives are members. We recommend for cases of national importance, where normal mediation has failed and where the parties consent, that emergency boards of inquiry be appointed from outside the Federal Government to conduct hearings on the issues and to publish findings based upon evidence submitted at these hearings.

The committee believes that any form of compulsory arbitration or supermachinery for disposition of labor disputes may frustrate rather than foster industrial peace.

This is the consensus of opinion between management and labor in America to which I subscribe. Mind you, there is no element of compulsion in this. The machinery of this kind is applied to each specific case. It is not setting up a large network of courts over the country and the U. S. mint to coin money for the unemployed lawyers.

Mr. Denny: Thank you, Mr. Shishkin. Now, Senator Ferguson has a comment on that.

Senator Ferguson: Oh, yes, I want to comment on that. What that question called for: What are we going to do in the cases where they will not settle? That's the question before the public. (*Applause.*)

Sure, management and labor don't want any courts to decide as he said now, but I want to know what the public is going to do when these people will not settle, and you're all thrown out of employment. We'd better have this machinery ready, and if we have it ready, I'm satisfied that we'll not have to use it in many cases, but let's have it there so that we can use it instead of paralysis such as we of America have faced. I'm against regulations—all forms of regulations—but I'm not willing that the American people sacrifice all their rights and live in chaos just because we do not provide machinery to take care of these case where they won't settle. (*Applause.*)

Mr. Denny: Mr. Shishkin, will you step up now?

Mr. Shishkin: I would like to answer Senator Ferguson. When he says that we must have a solution in which there is a complete insurance policy written, in which there will be no work stoppage and no interruption—we would love, of course, to have that—and he says that he is an advocate of self-discipline and responsibility, I don't think he's telling us the truth, because if there's going to be a decree resolving everybody's trouble for him there can be no self-discipline, no responsibility, on anybody's part. There'll be an atrophy of that. We will have goose-stepping boys marching down Pennsylvania Avenue, parading, with Senator Ferguson on the reviewing stand, if we have that kind of a system long in operation. Because if we have decrees that are going to prescribe the conditions in which men will be compelled to work, under compulsion, no matter how high the tribunal, we will not have the basic freedom which makes our Congress democratic and our system of government a free system of government. (*Applause.*)

Mr. Denny: We've got Senator Ferguson on his feet. I think we'd better wrestle with this problem a little while, Senator.

Senator Ferguson: No, the American people will never goose-step to what I say. (*Applause.*)

Far be it from me. But I do say this, that there are certain cases—and these are the public utilities, or where they force paralysis upon this Nation—where we must have some machinery to ultimately decide the issues if the people won't do it by self-discipline. That is the problem that we are facing.

We don't want regulations in America, but we do want machinery so that in the last analysis we can settle our problems.

Would he do away with all other courts? I'm afraid not, because it wouldn't be safe for us to go out of that door. They are the salvation and the keystone to America.

Would you do away with the churches, even because you don't go to them? No, America could not survive without these great institutions—the courts, and the churches, and the public institutions of learning. We need them as a background. (*Applause.*)

Mr. Shishkin: The issue is a very simple one, it seems to me, when we get over the verbiage. It's this: Sam Brown has got an automobile—a jalopy—but it runs. Tom Smith has got a horse and buggy. There is milk to be delivered in the city. The city's health depends on that. Milk must be there for the babies.

Now Sam Brown and Tom Smith have a little conversation, and Tom says, "Now, look, I have only a horse and buggy here, and I need

an automobile to deliver milk to all the babies."

Sam Brown says, "No, I need my automobile. I need it for myself. I've got to take kids to school and all the rest."

Well, under the Ferguson system of administration, the court will come in and decide and say, "No, this is your automobile, but the community needs it, and we decide to take that automobile away from you to deliver milk." That's the difference. (*Shouts of No.*)

Mr. Denny: The Senator is stepping up again.

Senator Ferguson: Oh, no, no! That is not the system at all. They are misjudging this entire system. That isn't the system at all. I'll give you an example now in America. Suppose the people here in New York want to build a highway, and Joe Doakes owns the land. Would he be able to stop that highway if it is of sufficient importance to go on?

No, that is the Government making the contract for them. They call in a jury and say, "Is it necessary for the entire public good to have such a highway?"

If the jury says "Yes"—your court system says "Yes"—then the Government makes the contract and says how much he should get.

America would never develop if you take any other system. Paramount to all other issues is the welfare of the American people and we can't stop progress just be-

cause we don't want some restraints where they are necessary. (*Applause.*)

Mr. Denny: Thank you, Senator. Mrs. Herrick wants to get in here now.

Mrs. Herrick: I just wanted to say that the picture drawn of the kind of disputes that would be handled in the labor courts have not been overdrawn. In fact, the experience in New Zealand and Australia shows that the labor courts even had to decide such a question as whether it was too wet to work. (*Applause.*)

Mr. Denny: Thank you, Mrs. Herrick. Mr. Riesel now. We've got to get some of these questions from the audience, but go ahead, Mr. Riesel.

Mr. Riesel: Sure, let's get rid of the verbiage. On November 5, 1945, the President of the United States brought together the top men in labor and the top men in management. What happened? They made speeches about one another. They made speeches about free enterprise. Dan Tobin complained about the theft of his overcoat. They did nothing. They got together. They had the opportunity. They did nothing. Now let us do it for them. Let the public give them some place where they can get together and decide before they cripple production. (*Applause.*)

Mr. Denny: Thank you. The

man with that smart looking new tie. (*Laughter.*)

Man: Mrs. Herrick, shouldn't we establish courts to prevent misuse of labor's chief weapon—strikes—and management's weapons just as the United Nations seek to prevent misuse of armies?

Mrs. Herrick: I think that there is another step which is more vital and important and will be more successful. Mr. Riesel, for example, referred to Sweden's experience with labor courts, but there Sweden has developed a system of self-determination by joint councils of employers and labor groups at the national level, when our local folks can't get together.

I think that more mediation, stronger mediation machinery is a better solution than to rush in to an elaborate system of courts such as we have seen, in Australia, for example, which require not only the top court but the development of a whole system of supplementary magistrate courts to pass upon every detail of the collective contracts. (*Applause.*)

Mr. Denny: Thank you, Mrs. Herrick. All right now, the gentleman over here. Yes?

Man: Mr. Riesel, why do you make a distinction between labor and the public?

Mr. Riesel: Labor makes that distinction; I don't make it. They speak in the name of 15 million organized dues payers. They speak as organized blocs. They make a

distinction between themselves in the A. F. of L. and the C.I.O. They never speak in the name of the 60 or the 58 million people who are working and the 20 million white-collar workers. They are speaking in terms of wages and hours for very specific groups, their groups—Mr. Shishkin on one side and Philip Murray in the C.I.O. on the other. (*Applause.*)

Mr. Denny: Thank you. The gentleman in the box. Yes?

Man: Mr. Shishkin, you're so interested in democratic defenses for the union, what about the secret ballot?

Mr. Shishkin: The secret ballot where?

Man: Lack of secret ballot in unions.

Mr. Shishkin: In all the unions directly affiliated with the American Federation of Labor, there is no work stoppage that is authorized by the union or tolerated by the organization in which there is not a secret ballot taken by the membership of that organization before the strike is voted. That is our law.

There are unions that don't follow that procedure. It is our belief—I'm not talking about those that I just mentioned—I say there are unions in this country which don't follow this procedure. We did have a strike in Pittsburgh in which there was a disruption in which there were none of these requirements that the labor move-

ment subscribes to. We say that there are many things and many people that need to be reformed in labor movement just as well as Mr. Whitney of the stock exchange needed by way of reform when he was sent to jail. (*Applause.*)

Mr. Denny: Thank you. The man on the front row here.

Man: Mr. Denny, my question is directed to Senator Ferguson. Senator Ferguson, when we will have a government ownership, will that be the solution for the laboring people of our country?

Senator Ferguson: No, I would say that nothing worse could happen to the American people than to have government ownership. (*Applause.*)

You haven't any idea what you'd give up in the inability to strive and to know that your children and your grandchildren were not going to be able to strive for the top of the ladder.

Oh, God forbid that we come to government ownership. We want an enterprise where the American people can *think* and *do*. Yes, in certain cases they have to know that what they are thinking and doing is not going to harm their fellow citizens, but the public good should not take away from us the right to think and to strive and to do and to prosper each according to his own talents.

Oh, we need free enterprise in the highest sense of the word—each man and each woman doing

his best, treating his fellow citizens equitably and right. That's what we need in America. (*Applause.*)

Mr. Denny: The gentleman in the balcony.

Man: Mr. Riesel, you claim that Sweden has a workable labor court. Why do you compare a country that is a kingdom to a democracy? (*Applause.*)

Mr. Riesel: I wish—and I say this with no disrespect to our country—that democracy in America were as pure as it is in the Scandinavian nations. (*Applause.*)

Mr. Denny: The gentleman right here.

Man: How would you make the decision in any court to make the people go back to work when they don't want to?

Senator Ferguson: Well, I'll have to answer that in this way. Let's take a strike like the coal strike. Suppose that the miners say that they're never going to mine any more coal and they're never going to allow anyone else to mine any more coal. Let's take that example. That's the question that has been put to me. Will the American people then say that there's nothing that can be done because 400,000 people out of a hundred and thirty million say a certain thing. If you do, you have no America. That's the answer. (*Applause.*)

You've got to take a hard case like that, take the extreme ends

of it, to prove your case, but if people will not work and not allow anybody else to work, and it's such a thing that will paralyze the Nation and we can't get along without it, then you cannot have a Nation. We'll have to give up one or the other. (*Applause.*)

Mr. Denny: Thank you. You can see why this is the Number One problem, all right. Now, the gentleman in the front of the balcony.

Man: Mr. Shishkin. You made a statement to the effect that a decree by a body of men is not consistent with the American way of life. However, I should like to know, what do you consider the Wagner Act and the National Labor Relations Act which sets down laws for management but not for labor.

Mr. Shishkin: You missed my point. The point that I made was that if there is no detailed law written by Congress, as Senator Ferguson would imply, then the judges would have to decide without the law on their own decision. But if there is a law written regulating wages, conditions of employment, right of promotion and demotion, and hire and discharge, then we would have a complete regulation.

The Wagner Act, you know, is a law that does not prescribe the matters in detail, but does provide procedures which the National Labor Relations Board has to follow

closely and the courts have to pass upon and approve.

Mr. Denny: Thank you, Mr. Shishkin. Senator Ferguson has a comment.

Senator Ferguson: I want to say this: The courts do not decide cases if there's no law. You must either have a contract and they interpret the will of the people under the terms of the contract, what they intended by the words of the contract, or they interpret law. Courts don't just decide if there's no law. Men don't go to jail if there's no law making it a crime. No, you've got to have law. It's interpretation of law and contracts that we're talking about that the courts use.

Mr. Shishkin: Just one word. Senator Ferguson is narrowing down his proposal from the way it appeared a month ago in the *American Magazine* so rapidly that if that keeps on we may have an agreement before the end of this session and Senator Ferguson will agree with me. (*Applause.*)

If it is narrowed down in this way, of course, many of the objections begin to fall out, but there's still not a complete answer to that solution, because if there's an interpretation of the contract by agreement, that's not a compulsory arbitration procedure. That is a submission of the parties to interpret that which they don't find in a common language. I don't object to that.

Senator Ferguson: Of course, I hope the people will read that magazine article. I wish I just had the time to stand here for a few minutes and that I could give you my analysis complete on these labor courts, because I think the American people must realize that we really need some machinery.

I'm willing to go to look for any machinery. My best idea at the present time is a judicial system which is the least political system. I don't want them rapping on the President's door where they are considering how many votes they'll get. I want them to go to the court of justice, the least political institution that we have in America, and knock at that door for justice. (*Applause.*)

Mr. Denny: Thank you, Senator Ferguson. Well, I'm glad to see that Town Meeting is bringing these two gentlemen a little closer together. Now, while Mr. Shishkin and Senator Ferguson prepare their summaries for tonight's discussion, here's a message from your announcer.

Announcer: Well, friends, you've heard both sides of tonight's important question concerning one proposed solution to our labor-management disputes. What's your opinion? Here's your chance to do something about this right now. For the best 500 word letter on this subject—that is, the one considered best by our committee of judges for its originality,

practicability, and constructiveness—Town Hall will send a \$25 United States Savings Bond.

All letters will become the property of Town Hall and the decision of our judges is final. Entries should be written on only one side of typewriter paper and should be mailed not later than midnight, January 15.

If you want a copy of tonight's discussion, enclose 10 cents to cover cost of printing and mailing. Address your letters to Town Hall, New York 18, New York. I'll repeat the address—Town Hall, New York 18, New York. Now for the summaries of tonight's discussion, here's Mr. Denny.

Mr. Denny: Here is Boris Shishkin with his summary for the negative of tonight's question, "Do We Need Labor-Management Courts To Settle Labor Disputes?"

Mr. Shishkin: We say, "No, we don't need labor courts." We don't need them because the experience has shown that they have not worked before and we are convinced that they will not work. They have not worked in Kansas. They have not worked in Australia where only last fall—one of the best examples that has been cited here so often—they resulted in more per capita labor strikes, over a period of years now, than we've had in the United States during the war and calling off of a labor-management conference which had been called because the strikes in

1941 30 3

Australia were so widespread that the labor-management conference had to be called off.

The second reason is that there is an element of unfairness and compulsion that we don't like.

Now, I would like to ask Senator Ferguson a question that I haven't had a chance to ask him before, and that is: Would a miner, who worked in a mine, lived with miners, really have an opportunity to present somebody on the court that he proposes to set up? I know from what he said before his answer would be "no" and that's why we don't like it.

Mr. Denny: Thank you, Mr. Shishkin, but let him answer that question, if he can, in his summary. Senator Ferguson?

Senator Ferguson: I'll be very glad to answer that. I was a miner myself. I have worked down in the coal mines, and I don't say yet that, because I worked down there, I should decide the case. You cannot select your own judges and you cannot select our own jury. The people do it for you because they want disinterested people to decide your case.

What have they offered on the opposite side here tonight? What solution do they propose?

I say to both management and labor if the court system isn't what they want, let them come up with

a solution that will solve these problems for the American people.

They say the court in Kansas didn't work. The only thing that didn't work there was the Supreme Court rule that the meat business in Kansas was not interstate commerce, and that was 20 years ago. They never decided that labor courts would not work, and we've never had the nerve to try them in America.

Mr. Denny: Thank you, Senator Ferguson, Boris Shishkin, Victor Riesel, and Mrs. Elinore Herrick for your enlightening contribution to this question which I am sure the American people will be discussing from coast to coast tomorrow and perhaps for a good many months to come.

Next week your Town Meeting will be on the discussion of the subject, "Should Rent Controls Be Lifted?" Are you interested?

Our speakers will be Herbert U. Nelson, executive vice-president of the National Association of Real Estate Boards; Congressman Albert Gore, Democrat of Tennessee; Mr. R. J. Thomas, vice-president of the C.I.O.; and Mr. Douglas Whitlock, attorney and chairman of the Building Products Institute.

So we invite you to plan now to be with us next week and every week at the sound of the crier's bell. (*Applause.*)